

667-82153

**CERTIFIED
TRANSCRIPT**

Page 1

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 - - - - -
5 ADRIAN SCHOOLCRAFT,
6 Plaintiff,
7 -against- Index No.
8 10CIV-6005 (RWS)

9 THE CITY OF NEW YORK, DEPUTY CHIEF
10 MICHAEL MARINO, Tax Id. 873220,
11 Individually and in his Official
12 Capacity, ASSISTANT CHIEF PATROL
13 BOROUGH BROOKLYN NORTH GERALD NELSON,
14 Tax Id. 912370, Individually and in his
15 Official Capacity, DEPUTY INSPECTOR
16 STEVEN MAURIELLO, Tax Id. 895117,
17 Individually and in his Official
18 Capacity, CAPTAIN THEODORE LAUTERBORN,
19 Tax Id. 897840, Individually and in his
20 Official Capacity, LIEUTENANT JOSEPH
21 GOFF, Tax Id. 894025, Individually and
22 in his Official Capacity, stg. Frederick
23 Sawyer, Shield No. 2576, Individually
24 and in his Official Capacity, SERGEANT
25 KURT DUNCAN, Shield No. 2483,
Individually and in his Official
Capacity, LIEUTENANT TIMOTHY CAUGHEY,
Tax Id. 885374, Individually and in his
Official Capacity, SERGEANT SHANTEL
JAMES, Shield No. 3004, and P.O.'s "JOHN
DOE" 1-50, Individually and in their
Official Capacity (the name John Doe
being fictitious, as the true names are
presently unknown) (collectively referred
to as "NYPD defendants"), JAMAICA
HOSPITAL MEDICAL CENTER, DR. ISAK ISAKOV,
Individually and in his Official
Capacity, DR. LILIAN ALDANA-BERNIER,
Individually and in her Official Capacity
and JAMAICA HOSPITAL MEDICAL CENTER
EMPLOYEES "JOHN DOE" # 1-50, Individually

(Continued)

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2 and in their Official Capacity (the name
John Doe being fictitious, as the true
3 names are presently unknown),

4

Defendants.

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6

220 42nd Street
New York, New York
May 30, 2014
10:28 a.m.

9

10 VIDEOTAPED DEPOSITION of ANTHONY J.
11 MAFFIA, a Witness on behalf of one of the
12 Defendants, JAMAICA HOSPITAL MEDICAL
13 CENTER, in the above-entitled action,
14 held at the above time and place, taken
15 before Margaret Scully-Ayers, a Shorthand
16 Reporter and Notary Public of the State
17 of New York, pursuant to Order and the
18 Federal Rules of Civil Procedure.

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1
2 APPEARANCES:
3

4 NATHANIEL SMITH, ESQ.
5 Attorney for Plaintiff
6 111 Broadway
7 Suite 1305
8 New York, New York 10006

9
10 JOHN LENOIR, ESQ.
11 Attorney for Plaintiff
12 829 Third Street NE
13 Washington, DC 20002
14 BY: NOT PRESENT

15 SUCKLE SCHLESINGER PLLC
16 Attorneys for Plaintiff
17 224 West 35th Street
18 Suite 1200
19 New York, New York 10001
20 BY: NOT PRESENT

21 ZACHARY W. CARTER, ESQ.
22 Corporation Counsel
23 Attorneys for Defendant
24 THE CITY OF NEW YORK
25 100 Church Street
New York, New York 10007

26 BY: RYAN SHAFFER, ESQ.
27 File # 2010-033074

28 (Appearances continued on next page.)

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1
2 APPEARANCES CONTINUED
3

4 SCOPPETTA, SEIFF, KRETZ & ABERCROMBIE,
5 ESQS.

Attorneys for Defendant
STEVEN MAURIELLO
444 Madison Avenue
30th Floor
New York, New York 10022

BY: WALTER A. KRETZ, JR., ESQ.

MARTIN, CLEARWATER & BELL, LLP
Attorneys for Defendant
JAMAICA HOSPITAL MEDICAL CENTER
220 42nd Street
13th Floor
New York, New York 10017

BY: GREGORY RADOMISLI, ESQ.
File # 667-82153

IVONE, DEVINE & JENSEN, LLP
Attorneys for Defendant
DR. ISAK ISAKOV
2001 Marcus Avenue
Suite N100
Lake Success, New York 11042

BY: MICHAEL T. IVONE, ESQ.

(Appearances continued on next page.)

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1

2 APPEARANCES CONTINUED

3

4 CALLAN, KOSTER, BRADY & BRENNAN, LLP

5 Attorneys for Defendant

6 LILIAN ALDANA-BERNIER

7 One Whitehall Street

8 New York, New York 10004

9 BY: PAUL CALLAN, ESQ.

10 File # 090.155440

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2 STIPULATIONS

3 IT IS HEREBY STIPULATED AND AGREED, by
4 and among counsel for the respective
5 parties hereto, that the filing, sealing
6 and certification of the within
7 deposition shall be and the same are
8 hereby waived;

9 IT IS FURTHER STIPULATED AND AGREED
10 that all objections, except as to form of
11 the question, shall be reserved to the
12 time of the trial;

13 IT IS FURTHER STIPULATED AND AGREED
14 that the within deposition may be signed
15 before any Notary Public with the same
16 force and effect as if signed and sworn
17 to before the Court.

18

19 * * *

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2 MR. SMITH: Going on the record
3 10:28.

4 This is the videotape deposition
5 of Jamaica Hospital. We are at the
6 offices of Martin, Clearwater & Bell
7 at 220 East 42nd Street.

8 And would you mind swearing in
9 the Witness, please.

10 [Whereupon, an oath was
11 administered.]

12 A N T H O N Y J. M A F F I A, the Witness
13 herein, having first been duly sworn by the
14 Notary Public, was examined and testified as
15 follows:

16 EXAMINATION BY MR. SMITH:

17 Q. What is your name?

18 A. Anthony J. Maffia.

19 Q. Where do you reside?

20 A. 722 Willow Road, Franklin
21 Square, New York 11010.

22 MR. RADOMISLI: Pursuant to the
23 federal rules, we reserve our right to
24 review and make corrections to the
25 transcript.

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1 A. MAFFIA

2 MR. SMITH: Okay.

3 Q. Good morning, Mr. Maffia. Is
4 that how you pronounce it?

5 A. Correct.

6 Q. My name is Nathaniel Smith, and
7 I'm an attorney. I represent Adrian
8 Schoolcraft who was an individual who
9 brought a claim against Jamaica Hospital.
10 He was admitted against his will by
11 Jamaica Hospital, and he brought a
12 lawsuit against Jamaica Hospital and
13 others.

14 There's a few rules and
15 procedures. I'm sure your counsel spoke
16 with you about them; the rules and
17 procedures. I just want to clarify that
18 we both agree on them at the beginning of
19 the record. Okay?

20 A. Okay.

21 Q. Is that all right?

22 A. Okay.

23 Q. If I ask you a question and you
24 don't understand, will you please let me
25 know?

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1 A. MAFFIA

2 A. Okay.

3 Q. You've just been sworn to tell
4 the truth so it's important that you do
5 that but also important that you
6 understand my questions because if I ask
7 a question and you answer, I'm going to
8 assume and the record is going to assume
9 that you understood the question.

10 If you have any concerns about
11 the question, please let me know and I
12 will do my best to rephrase it. Okay?

13 A. Okay.

14 Q. Have you ever been deposed
15 before?

16 A. No.

17 Q. Who are you currently employed
18 by?

19 A. Jamaica Hospital Medical
20 Center.

21 Q. What is your position there?

22 A. Vice president of psychiatry.

23 Q. How long have you been the vice
24 president of psychiatry?

25 A. Since 1995.

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1 A. MAFFIA

2 MR. IVONE: Read that back.

3 [The requested portion of the
4 record was read.]

5 Q. Is there a department within
6 Jamaica Hospital that you work in?

7 A. Yes, the Department of
8 Psychiatry.

9 Q. How long have you worked within
10 the Department of Psychiatry at Jamaica
11 Hospital?

12 A. Since 1995.

13 Q. Can you describe for me the
14 organizational structure of the
15 Department of Psychiatry?

16 MR. RADOMISLI: Objection to
17 form.

18 But you can answer the question.

19 A. The organizational structure is
20 that there is a vice president, myself,
21 who reports to the chief operating
22 officer of the hospital.

23 There is clinical chairman who
24 reports to the chief operating officer,
25 the medical board, and the president of

Page 11

1 A. MAFFIA

2 the hospital; and he takes care of all
3 clinical matters.

4 And I take care of --

5 responsible for the administrative
6 matters.

7 Q. What is the name of the
8 individual who was in charge of the
9 clinical matters?

10 A. Dr. Seeth, S-E-E-T-H, first
11 name; last name Vivek, V-I-V-E-K. He's a
12 physician.

13 Q. Are you a physician?

14 A. I am not.

15 Q. Do you report to the same
16 individuals that Vivek reports to?

17 A. Well, he reports to the medical
18 board, and I report to the chief
19 operating officer and the president.

20 He reports to the medical
21 board, the chief operating officer, and
22 the president.

23 Q. Who is the chief operating
24 officer?

25 A. William Lynch.

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1 A. MAFFIA

2 Q. Have you reported to Lynch
3 throughout your tenure and Jamaica
4 Hospital?

5 A. No.

6 Q. Who else was the chief
7 operating officer?

8 A. Prior to Mr. Lynch was Mr.
9 Bruce Flanz, F-L-A-N-Z, first name Bruce.

10 Q. When did Lynch become the chief
11 operating officer?

12 A. About one year ago.

13 Q. In 2009 Flanz was the chief
14 operating officer of the hospital?

15 A. That's correct.

16 Q. As the vice president, what are
17 your duties?

18 A. My duties are administrative in
19 nature.

20 Q. Can you explain that in a
21 little bit more detail?

22 A. I'm responsible for program
23 development; budgets; finance; grant
24 writing; any other administrative issues;
25 development of space; construction; those

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1 A. MAFFIA

2 types of things.

3 Q. Exclusively for the Department
4 of Psychiatry?

5 A. That's correct.

6 Q. When you say "program
7 development," what kind of program
8 development are you referring to?

9 A. To new ideas and concepts for
10 different types of programs we can
11 utilize at the hospital to assist the
12 community; for instance, operations that
13 would help patients utilize a mental
14 health clinic more than an inpatient
15 setting, a CPEP, Comprehensive
16 Psychiatric Emergency Program.

17 Q. Was there a CPEP at the
18 hospital in 2009?

19 A. No.

20 Q. When did a CPEP operation
21 commence at the hospital?

22 A. Last year.

23 Q. Was it that last year that
24 there were renovations done to the
25 psychiatric emergency room?

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1 A. MAFFIA

2 A. That's correct.

3 Q. And those renovations were done
4 in order to obtain the CPEP
5 authorization?

6 A. That's correct.

7 Q. What kind of psychiatric
8 facility did the hospital have in 2009?

9 A. They had a mental health
10 clinic, a psychiatric emergency
11 department, and two psychiatric inpatient
12 units.

13 MR. IVONE: I'm sorry.

14 THE WITNESS: Two psychiatric
15 inpatient units.

16 MR. RADOMISLI: Off the record.

17 [Discussion held off the
18 record.]

19 Q. You said there was a clinic at
20 the hospital?

21 A. Uh-huh.

22 Q. What did the clinic do?

23 A. Sees outpatients.

24 Q. And the psychiatric ER, what
25 does that do?

Page 15

1 A. MAFFIA

2 A. Sees emergency patients.

3 Q. What are emergency patients?

4 A. Patients that are brought in
5 requiring emergency care either by
6 ambulance, by police, by families or
7 themselves.

8 Q. What are the circumstances
9 under which patients require emergency
10 care?

11 MR. RADOMISLI: Objection, goes
12 beyond the scope.

13 Don't answer the question.

14 MR. SMITH: Don't answer the
15 question?

16 MR. RADOMISLI: You are limited
17 by court order.

18 MR. SMITH: Well, I'm not going
19 to quibble with you about that, but I
20 think I need a little bit of latitude
21 to understand the nature of the
22 operations and all the other areas.

23 So give me a little bit of
24 latitude so we won't get into an
25 unnecessary delay.

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1 A. MAFFIA

2 MR. RADOMISLI: The question is

3 ---

4 MR. SMITH: I understand what
5 the court order was. I think you do
6 to.

7 So I'm suggesting give me a
8 little bit of latitude and if you
9 think I'm really going beyond the
10 limitations, that might be a good
11 point to tell the Witness not to
12 answer the question.

13 MR. RADOMISLI: I think the
14 question that you just asked goes
15 beyond it.

16 Q. The two wards that you
17 mentioned, units, what do they do?

18 A. They see psychiatric patients.

19 Q. Where are they located?

20 A. They are on the second and
21 third floor of what is known as the C
22 building at the hospital.

23 Q. Is there any difference between
24 the two units?

25 A. No.

Page 17

1 A. MAFFIA

2 Q. How many beds in each unit?

3 A. Twenty-five.

4 Q. What is your year of birth?

5 A. 1949.

6 Q. What is your highest level of
7 education?

8 A. Master's degree.

9 Q. In what?

10 A. Social work.

11 Q. When did you get that?

12 A. 1977.

13 Q. From where?

14 A. Adelphi University.

15 Q. What did you do after that?

16 A. Worked at what was Booth

17 Memorial Medical Center, now New York
18 Hospital Queens.

19 Q. Doing what?

20 A. Social work.

21 Q. What was your next form of
22 employment?

23 A. Winthrop University Hospital.

24 Q. Doing what?

25 A. Social work. I was the

Page 18

1 A. MAFFIA

2 assistant director of social work there.

3 Q. What was your next form of
4 employment?

5 A. Jamaica Hospital. I was the
6 director of social work there.

7 Q. When did you start working at
8 Jamaica Hospital?

9 A. 1986.

10 Q. What were your duties as a
11 director of social work in 1986?

12 A. To supervise and direct the
13 social work services at the hospital.

14 Q. What are the social work
15 services at the hospital?

16 MR. RADOMISLI: What were they
17 back in 1986?

18 MR. SMITH: No, what are they.

19 A. Now?

20 Q. Yes.

21 A. I'm not the director of social
22 work anymore.

23 Q. At the time that you were, what
24 were the social work activities?

25 MR. RADOMISLI: Objection.

Page 19

1 A. MAFFIA

2 But you can answer.

3 A. They provided discharge
4 planning services to the patients in the
5 hospital.

6 Q. Anything else?

7 A. Also counseling services to the
8 same patients and their families.

9 Q. What kind of counseling?

10 A. Counseling around discharge,
11 assistance at home, basically, medical
12 social work. It wasn't psychiatric
13 social work.

14 Q. What did you do next?

15 A. In 1995 I was promoted to vice
16 president of psychiatry at Jamaica
17 Hospital.

18 Q. Those are the duties that you
19 have and that's the title that you have
20 today?

21 A. That's correct.

22 Q. Was your work as a social
23 worker prior to coming to Jamaica
24 Hospital medical social work?

25 A. Yes.

Page 20

1 A. MAFFIA

2 Q. Did it also involve psychiatric
3 social work?

4 A. At Winthrop the answer -- yeah,
5 and at Jamaica -- Booth also. It was
6 limited experience in psychiatry there at
7 Winthrop. I had some experience in
8 psychiatric social work there.

9 Q. What was your experience in the
10 psychiatric social work?

11 A. There was a psychiatric unit at
12 Winthrop, and I supervised the social
13 work there.

14 Q. Do you have any training in
15 psychiatric social work?

16 A. Social work is social work.
17 Psychiatry is only the division that you
18 work in.

19 Q. Is that an answer to my
20 question?

21 A. [Indicating.]

22 Q. Yes?

23 A. Yes.

24 If you are a social worker in a
25 psychiatric setting, that's where you

Page 21

1 A. MAFFIA

2 work. If you were a social worker in a
3 medical setting, you do social work in a
4 medical setting.

5 The differentiation is the type
6 of social work you provide. Social work
7 in general as a service or diploma is
8 social work.

9 Q. Do you have any licenses?

10 A. Yes.

11 Q. What licenses do you have?

12 A. I am LCSW, a licensed clinical
13 social worker.

14 Q. Any other licenses?

15 A. No.

16 Q. As a licensed social worker,
17 did you have to take any examinations?

18 A. Yes.

19 Q. Who administered those
20 examinations?

21 A. The State of New York.

22 Q. Do you also have to have
23 certain educational requirement?

24 A. Master's degree.

25 Q. Either in your studies to

Page 22

1 A. MAFFIA

2 obtain your master's degree or in your
3 studies to obtain any prior degrees, did
4 you have any training in psychiatric
5 social work?

6 MR. RADOMISLI: Objection.

7 You can answer.

8 A. No.

9 Q. Have you ever had any training
10 in psychiatric social work?

11 MR. RADOMISLI: Asked and
12 answered.

13 You can answer.

14 A. Yes.

15 Q. What was your training in
16 psychiatric social work?

17 A. When I worked at Booth Memorial
18 Medical Center, there was as psychiatric
19 unit there. I provided services there
20 and was supervised by the director of the
21 department.

22 Q. And that was the extent of your
23 training in psychiatric social work?

24 MR. RADOMISLI: Objection to
25 form.

Page 23

1 A. MAFFIA

2 MR. SMITH: You can answer.

3 A. At Booth.

4 Q. How were you trained?

5 MR. RADOMISLI: He is not here
6 as a personal witness. He is here as
7 a corporate witness.

8 MR. SMITH: But I'm trying to
9 understand the foundation for the
10 subject matters I'm going to ask him
11 about.

12 MR. RADOMISLI: Well, I'm not
13 sure that that question goes to the
14 issues. I'm not going to give you a
15 hard time, but at some point --

16 MR. SMITH: Okay. I'm just
17 trying to find out what his training
18 was in psychiatric social work in
19 forms not only from his experience and
20 the level of his foundation for the
21 testimony.

22 MR. RADOMISLI: Not really. The
23 foundation of his testimony is his
24 role as VP director and VP in
25 psychiatric.

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1 A. MAFFIA

2 MR. SMITH: I'm not going to go
3 into this in great detail.

4 Q. Sir, can you just briefly
5 describe for me what training you got for
6 psychiatric social work?

7 A. I received training also at
8 Winthrop when I was a supervisor of the
9 unit there and there were educational
10 programs that I would attend along with
11 other social workers and team members.

12 Q. What were these educational
13 program about?

14 A. They would be called case
15 conferences, grand rounds, individual
16 conferences about certain patients with
17 psychiatrists who would discuss the
18 patients.

19 Q. Have you ever received any
20 training in order to determine whether or
21 not a patient is a danger to themselves
22 or others?

23 MR. RADOMISLI: Objection.

24 I'm going to direct him not to
25 answer. It's beyond the scope.

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1 A. MAFFIA

2 Q. At Jamaica Hospital, do you
3 have any role in making assessment of
4 dangerousness of individuals who are
5 mentally ill or have been alleged to be
6 mentally ill?

7 A. No, the physicians do that.

8 Q. What did you do to prepare for
9 today's deposition?

10 A. Met with the attorneys or
11 attorney.

12 Q. When?

13 A. Over about a two- or three-week
14 period probably.

15 Q. My question was when?

16 A. When, sorry. Once a week for
17 the last three weeks.

18 MR. RADOMISLI: Don't look at
19 me.

20 THE WITNESS: I apologize. I'm
21 just trying to remember.

22 MR. SMITH: Did you say don't
23 look at him?

24 MR. RADOMISLI: Don't look at
25 me. I can't give you the answer.

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1 A. MAFFIA

2 Q. How many times did you meet,
3 How many times did you meet with the
4 attorney for Jamaica Hospital in this
5 case?

6 A. Three times.

7 Q. How long were each of these
8 meetings?

9 A. Between hour and a half to two
10 hours.

11 Q. Did you look at any documents?

12 A. Yes.

13 Q. What documents did you look at?

14 A. Some of the policies that the
15 Department of Psychiatry has.

16 Q. How many policies did you look
17 at?

18 A. I don't know, several.

19 Q. Did you look at anything else
20 other than Department of Psychiatry
21 policies?

22 A. No.

23 Q. What were the policies about?

24 A. One policy was about
25 involuntary admission.

Page 27

1 A. MAFFIA

2 Q. What were the other policies
3 about?

4 A. Similar.

5 Q. I don't know what that means.

6 A. There was some policies about
7 involuntary admission and some of the
8 issues surrounding the mental hygiene law
9 and the policies. I looked at those.

10 Q. I'm not sure you're answering
11 my question.

12 What policies of the hospital
13 did you look at in preparing for your
14 deposition?

15 A. It was a policy on involuntary
16 admissions.

17 Q. You told me about that.

18 A. Right.

19 Q. What other policies did you
20 look at in preparing for your deposition?

21 A. I can't recall. I know it was
22 that one. I don't recall. I'm sorry.

23 Q. Who were the attorneys that you
24 met with on those three occasions when
25 you prepared for your deposition?

Page 28

1 A. MAFFIA

2 A. On all three occasions, counsel
3 present [indicating], also there was
4 another attorney that we met with Mr.
5 Thrope, T-H-R-O-P-E.

6 Q. Who is Mr. Thrope?

7 A. He was one of the attorneys for
8 the hospital.

9 Q. Does he work for Martin,
10 Clearwater & Bell?

11 A. No, he does not.

12 Q. He is in-house counsel for the
13 hospital?

14 A. No, he works for a firm. I
15 don't know.

16 In-house, does that mean we
17 employ him and he works at the hospital?
18 I don't understand.

19 Q. What is the name of the firm?

20 A. Foley & Lardner.

21 Q. It's your understanding he was
22 the attorney representing the hospital?

23 A. That's correct.

24 Q. Was there anybody else present?

25 A. Yes.

Page 29

1 A. MAFFIA

2 Q. Who?

3 A. Dr. Vivek was present at one
4 meeting.

5 Q. Anybody else present at any of
6 these meetings?

7 A. No.

8 Q. Is Dr. Vivek your peer, your
9 superior, or your subordinate at the
10 hospital?

11 A. He is --

12 MR. RADOMISLI: Objection to
13 form.

14 A. He is a peer.

15 Q. Have you spoken with anybody
16 else at the hospital about your
17 deposition?

18 A. No.

19 Q. Have you done anything else
20 other than meet with the attorneys and
21 Dr. Vivek on the three occasions and
22 looked at the policy documents that you
23 mentioned?

24 A. Say that again.

25 Q. I'll be happy to.

Page 30

1 A. MAFFIA

2 Other than meeting the
3 attorneys on these three occasions --

4 A. Uh-huh.

5 Q. -- and other than looking at
6 these policy documents for the hospital,
7 did you do anything else to prepare for
8 today's deposition?

9 MR. RADOMISLI: Other than Dr.
10 Vivek.

11 MR. SMITH: He was at one of the
12 meetings.

13 THE WITNESS: Right.

14 Q. Other than being in these three
15 meetings and other than looking at these
16 policy documents, did you do anything
17 else to prepare for your deposition?

18 A. No.

19 Q. What is your understanding of
20 the subject matter that you are here to
21 testify about?

22 A. I'm here to testify about four
23 issues: One was about structure of the
24 hospital; something about cameras;
25 policies; and I forgot the fourth one.

Page 31

1 A. MAFFIA

2 I'm sorry.

3 Q. Was the fourth one performance
4 evaluations at the hospital for doctors?

5 A. Yes [indicating].

6 Q. Is that correct?

7 A. Yes. Sorry.

8 Q. Does the hospital have any
9 procedures, protocols, or practice with
10 respect to doing evaluations on the
11 performance of doctors that work for it?

12 A. Yes.

13 Q. What are those?

14 A. They get a yearly evaluation.

15 Q. Is there a policy document that
16 describes what that yearly evaluation
17 covers?

18 A. The evaluation which I'm
19 somewhat familiar with has the tenet of
20 what the evaluation is about; what the
21 doctor is evaluated on. It kind of
22 serves as the policy and the evaluation
23 tool.

24 Q. Can you explain that answer?

25 A. In other words, on the

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1 A. MAFFIA

2 evaluation there are things that the
3 doctor was evaluated on and that serves
4 as the policy.

5 Is there a policy they get a
6 yearly evaluation, the answer is yes.

7 Q. So there is a form of
8 evaluation used to evaluation doctors?

9 A. That's correct, right.

10 Q. And the form covers certain
11 subject matters; is that correct?

12 A. Yes.

13 Q. And are you telling me that the
14 hospital policy about what the factors
15 are in order to assess the performance of
16 the doctors who works at the hospital are
17 set forth in the form?

18 A. Yes.

19 MR. SMITH: I request the
20 production of the form, Jamaica
21 Hospital evaluation that was employed
22 to evaluate doctors for the period
23 2007, '8, '9.

24 MR. RADOMISLI: Taken under
25 advisement. Please follow up in

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1 A. MAFFIA

2 writing.

3 Q. Have you looked at that form
4 recently?

5 A. Yes, just perused it briefly.

6 Q. When?

7 A. During one of our conversations
8 with the attorneys.

9 Q. What do you recall about the
10 form?

11 A. It has certain items that the
12 physicians are evaluated on.

13 Q. What are the items?

14 A. Their ability to relate to
15 patients, ability to relate to staff, the
16 ability to work on an interdisciplinary
17 team, those are some of the items.

18 Q. I would like to know all of the
19 items.

20 A. I couldn't recount them all.

21 Q. Do you have them here today?

22 A. I don't have them.

23 Q. So you're not ready to testify
24 about the subject matter of the
25 evaluation process for doctors at Jamaica

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1 A. MAFFIA

2 Hospital, are you?

3 A. I don't --

4 MR. RADOMISLI: Objection to
5 form.

6 A. I don't do the evaluations.

7 Q. So you are not prepared to talk
8 to me about what the evaluations of
9 doctors are, right?

10 MR. RADOMISLI: Objection. He
11 is --

12 MR. SMITH: You can object. You
13 can instruct him not to answer
14 questions. Please don't make any
15 speeches.

16 MR. RADOMISLI: I'm going to
17 object to that question.

18 MR. SMITH: You can answer.

19 MR. RADOMISLI: He cannot
20 answer. He is here to answer
21 questions about the evaluation
22 process.

23 MR. SMITH: Stop. You're
24 interrupting my examination.

25 Q. Do you want to answer my

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1 A. MAFFIA

2 question, please?

3 MR. RADOMISLI: No.

4 MR. SMITH: You're telling him
5 not to answer a question about whether
6 or not he is prepared to answer as to
7 the subject matter that the Court
8 directed him to appear before me and
9 answer. Is that what you're doing?

10 MR. RADOMISLI: No. The form of
11 the question is improper.

12 MR. SMITH: Fine. If the form
13 is improper, the form is improper; but
14 to instruct him not to answer the
15 question because of that is completely
16 improper, okay, and you know it so
17 stop it.

18 MR. RADOMISLI: Don't raise your
19 voice.

20 MR. SMITH: I'm not raising my
21 voice. I'm frustrated every time I
22 ask a question I try to get basic
23 information, I get stall tactics like
24 this.

25 MR. RADOMISLI: Stall tactics?

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1 A. MAFFIA

2 MR. SMITH: I'm asking the
3 Witness whether or not he is prepared
4 to testify about one of the subject
5 matters that the Court directed you to
6 produce him on.

7 MR. RADOMISLI: Fine.

8 MR. SMITH: And you're
9 instructing not to answer that
10 question.

11 MR. RADOMISLI: Not in that
12 form. Don't ask it in the negative.
13 Ask a positive question.

14 Q. Are you prepared to testify on
15 the subject matters of the performance
16 evaluation process for doctors at Jamaica
17 Hospital?

18 A. I can testify as to -- ask me a
19 question and I try to help you.

20 Q. I just asked you a question,
21 sir. Do you want to answer my question?

22 Are you prepared to testify
23 about the factors that go into the
24 evaluation of doctors at Jamaica
25 Hospital?

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1 A. MAFFIA

2 A. I know what some of the factors
3 are.

4 Q. But some of the factors you
5 don't know?

6 A. That's correct. I can't
7 remember all of them.

8 MR. SMITH: My suggestion,
9 Counsel, is you either get me a copy
10 of this form now and I show it to the
11 Witness or we are going to have to
12 come back.

13 MR. RADOMISLI: He can testify
14 about the evaluation process. You
15 specifically asked for documents
16 before the court conference, and the
17 Court did not allow you to get it.

18 He is here to talk about the
19 evaluation process of the doctors. It
20 doesn't necessarily mean it's
21 exhaustive, every single item. He can
22 tell you what he can tell you. He is
23 prepared to tell you about the
24 process.

25 MR. SMITH: I don't mean to

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1 A. MAFFIA

2 lecture you about the law. The fact
3 is he has an obligation to study the
4 subject matter of the 30(b)(6) witness
5 and come here prepared to provide
6 information, complete information
7 about the subject matter.

8 To me he has not done that
9 because he says I don't know some of
10 the factors but I don't know all of
11 them, and I looked at the form but I
12 can't remember everything.

13 So, again, I suggest to you, you
14 get me the form and you present it to
15 the Witness that he looked at recently
16 so we can complete this witness's
17 examination, or we were going to have
18 to have another fight. It's up to
19 you.

20 MR. RADOMISLI: The Witness is
21 prepared to answer your questions.

22 It's not a memory test.

23 If you want to ask him about
24 certain things whether X is
25 considered, Y is considered, go ahead.

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1 A. MAFFIA

2 He is not here to reiterate the entire
3 form. He is not required to do that.

4 He is familiar enough with the process
5 and the what factors are considered.

6 The fact that he may not be able
7 to remember every single one, does not
8 disqualify him as a competent witness.

9 MR. SMITH: Well, I disagree
10 with you.

11 So you are not going to get that
12 form so we can complete his
13 examination?

14 MR. RADOMISLI: I'll think about
15 it. Move onto other topics.

16 MR. SMITH: That's reasonable.

17 We will leave the performance
18 evaluation subject matter and come
19 back to that later.

20 Q. What is the organizational or
21 corporate structure of Jamaica Hospital?

22 MR. IVONE: Read that back.

23 [The requested portion of the
24 record was read.]

25 A. Jamaica Hospital has a board of

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1 A. MAFFIA
2 trustees with a chairman and then there
3 are several officers on the board, board
4 members. Under that is the president and
5 CEO of the hospital. Underneath the
6 president and CEO is the chief operating
7 officer and the chief financial officer.
8 Kind of across from that is the medical
9 board. Underneath the medical board who
10 has a president, there are the clinical
11 chairmen which also report to the
12 president and CFO and COO; and there are
13 vice presidents underneath the president
14 and the chief operating officer.
15 Underneath the vice presidents are
16 various administrators and directors of
17 services.

18 Jamaica Hospital is
19 not-for-profit hospital.

20 Q. Who is the chairman?

21 A. The board of trustees?

22 Q. Yes.

23 A. Neil Phillips.

24 Q. Who is the president of the
25 hospital?

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1 A. MAFFIA

2 A. Mr. Bruce Flanz.

3 Q. And the CEO?

A. He is the CEO.

5 Q. And the COO?

6 A. Mr. William Lynch.

7 Q. And the CFO?

A. Mounir, M-O-U-N-I-R; last name

9 Doss, D-O-S-S.

10 Q. How many vice presidents are
11 there?

12 A. I believe there are six.

13 Q. What are their titles other
14 than yours?

15 A. There is a vice president for
16 finance; vice president ambulatory care,
17 vice president for
18 rehabilitation/transitional care
19 services. I'm trying to remember, jeez.
20 I'm missing something. I'm sorry. I
21 will remember.

22 Q. If it comes to your mind, let
23 me know?

24 A. I apologize.

25 Vice president of nursing, Miss

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1 A. MAFFIA

2 Holley, H-O-L-L-E-Y.

3 Q. Does the hospital have separate
4 departments?

5 A. Yes.

6 Q. Who are those?

7 A. There are quite a few. Are you
8 talking about clinical departments?

9 Q. I want to know about the
10 organizational structure.

11 A. The Department of Surgery; the
12 Department of Medicine; Department of
13 OB/GYN; Department of Pediatrics. There
14 is the Department of Rehabilitation
15 Medicine; pediatrics, and Department of
16 Anesthesia, Emergency Department, there a
17 whole series of other departments:
18 pulmonary; respiratory; social work;
19 quality improvement. There's dozens.

20 Q. I would like know to the extent
21 that you have to rattle off those
22 departments, I would like to know what
23 they are.

24 A. Let's see. I mentioned
25 respiratory, instruction, engineering,

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1 A. MAFFIA
2 housekeeping, plant operations, human
3 resources, there is the Finance
4 Department, Benefits Department,
5 Department of Nursing, Department of
6 Ambulatory Care, case management, the
7 list goes kind of on and on.

8 Q. Who runs the Emergency
9 Department?

10 A. Dr. Doughlin. He is the
11 chairman of emergency medicine.

12 Q. Who runs the Finance
13 Department?

14 A. Mounir Doss, the chief
15 financial officer.

16 Q. Is the Finance Department
17 responsible for determining whether or
18 not services the hospital provides will
19 be covered by insurance, among other
20 things?

21 A. I can't answer your question
22 the way you phrased it. Could you just
23 ask it another way? I'm sorry.

24 Q. Is there a particular
25 department within the hospital

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1 A. MAFFIA

2 responsible for determining whether or
3 not the hospital will be reimbursed by
4 insurance or some other third-party
5 payer?

6 A. The Finance Department would
7 usually bill or send the bills out to the
8 insurance company.

9 Q. Which department contacts
10 insurance companies to find out whether
11 or not a service to be provided will be
12 covered?

13 A. Usually, it would be the
14 Finance Department and case management.

15 Q. Who runs case management?

16 A. Cheryl Mersten, M-E-R-S-T-E-N,
17 I believe. She runs case management.

18 Q. Is there a Security Department?

19 A. Yes, there is. I left that
20 out.

21 Q. Who runs the Security
22 Department?

23 A. Presently.

24 Q. Yes?

25 A. Mr. Charles Neacy, N-E-A-C-Y.

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1 A. MAFFIA

2 Q. Who ran security in 2009?

3 A. I think it was a Mr. Martinez.

4 Q. What was his first name?

5 A. Francisco. I might be wrong
6 about that. I believe it was him.

7 Q. How many people worked in the
8 Security Department?

9 A. I don't know.

10 Q. Any of them formal NYPD?

11 A. I don't know that either.

12 Q. Who are the other directors of
13 the Security Department who you can think
14 of?

15 A. Previous directors?

16 Q. Yes.

17 A. There was prior to Mr.
18 Martinez, there was a Clarence Herring.

19 Q. Can you spell that?

20 A. H-E-R-R-I-N-G?

21 Q. Anybody else?

22 A. Prior to him was a gentleman by
23 the name of David McJolly, M-C-J-O-L-L-Y.

24 Q. And prior to him?

25 A. A gentleman by the name of

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1 A. MAFFIA

2 Buster Stratton.

3 Q. Prior to Stratton?

4 A. I don't know. I'm sorry.

5 Q. I have exhausted your
6 knowledge?

7 A. Right, it's before my time.

8 MR. RADOMISLI: Off the record.

9 [Discussion held off the
10 record.]

11 MR. SMITH: Going off the
12 record, 11:13 a.m.

13 [Whereupon, at 11:13 a.m., a
14 recess was taken.]

15 [Whereupon, at 11:13 a.m., the
16 testimony continued.]

17 MR. SMITH: Going on the record.

18 It's still 11:13. We were just off
19 for a few seconds.

20 Q. Is the Security Department at
21 Jamaica Hospital the department that's
22 responsible for the operations of
23 security cameras?

24 A. Yes.

25 Q. What kind of security cameras

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1 A. MAFFIA

2 were at Jamaica Hospital in
3 October/November 2009?

4 A. The cameras were broken.

5 Q. So there were cameras in the
6 hospital, but they were broken?

7 A. That's correct.

8 Q. How many cameras were there in
9 the hospital?

10 A. In the entire hospital?

11 Q. Yes.

12 A. I couldn't even begin to guess.

13 MR. SMITH: I think that
14 question was a little bit poorly
15 formed, very badly, poorly formed.

16 Q. How many camera systems were
17 there in the hospital in October 2009?

18 A. There was one system.

19 Q. Just to clarify my bad
20 question: And that system had various
21 cameras located throughout the hospital?

22 A. [Indicating.]

23 Q. Is that correct?

24 A. Yes, that's correct.

25 Q. Including cameras in the

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1 A. MAFFIA

2 emergency room?

3 A. In which emergency room?

4 Q. How many emergency rooms are
5 there?

6 A. Two.

7 Q. Is there a difference between
8 the two?

9 A. Sure: One is medicine/surgery.
10 One is psychiatry.

11 Q. I see. Isn't the psychiatric
12 emergency room adjacent --

13 A. Yes.

14 MR. RADOMISLI: Let him finish.

15 THE WITNESS: I apologize. I'm
16 sorry.

17 MR. RADOMISLI: You're doing
18 fine.

19 MR. SMITH: I think so too.

20 THE WITNESS: I don't know if
21 that's good or bad. Sorry.

22 MR. SMITH: In terms of
23 answering and breaking from the normal
24 casual conversation, in my view,
25 you're fine.

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1 A. MAFFIA

2 Q. In 2009, the psychiatric ER was
3 directly to the left of the emergency
4 room when you walked in through the
5 double doors and faced the nurses'
6 station, right?

7 A. That's correct.

8 Q. And were there security cameras
9 in the medical ER area?

10 A. Yes.

11 Q. Were there security cameras in
12 the psychiatric ER section of the
13 hospital at the same time in November
14 2009?

15 A. Yes.

16 Q. Were there also cameras in the
17 entrance way to the hospital, the
18 entryway to the emergency room at the
19 hospital?

20 A. I'm not sure what you mean.
21 Which entryway?

22 Q. When a patient is brought to
23 the hospital in the ambulance, the
24 ambulance parks in a certain location?

25 A. Yes, that's correct.

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1 A. MAFFIA

2 Q. Four or five different parking
3 spots, correct?

4 A. [Indicating.]

5 Q. Is that correct?

6 A. Yes.

7 Q. And the patient is brought
8 through some doors to the hospital. To
9 the right is the emergency room, right?

10 A. Yes.

11 Q. Are there cameras in the area
12 of the interior of the hospital, right
13 there?

14 A. Yes.

15 Q. Are there cameras in the
16 exterior showing what is going on
17 directly outside the hospital where the
18 ambulances park?

19 A. I can't answer that for sure.

20 Q. Were there also cameras in the
21 wards of the hospital in October 2009?

22 A. What do you mean by wards?

23 Q. All right.

24 Was there a camera system in
25 the two psychiatric wards at Jamaica

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1 A. MAFFIA

2 Hospital in October 2009?

3 A. Yes. They were broken then.

4 Q. I got that. I just want to
5 know whether or not there were little
6 cameras there set up but weren't working,
7 right?

8 A. No, they weren't.

9 Q. How long had they been broken
10 as of October 31, 2009?

11 A. They had been nonoperational
12 probably since 2003. I'm guessing at the
13 year, but it's a long time.

14 Q. Why did the hospital permit the
15 cameras system to remain inoperable for
16 such a long period of time?

17 A. Because the cost of replacing
18 all of them because the machinery was
19 old, outdated, and they didn't have the
20 money to do it.

21 Q. When did the hospital fix the
22 security camera system?

23 A. The hospital, as far as I know,
24 fixed the security system only in the
25 Department of Psychiatry and that was

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1 A. MAFFIA

2 after we got grant money to do it.

3 Q. When was that?

4 A. We did the new CPEP I guess
5 that was 2011/2012 when the construction
6 took place.

7 Q. When you say that the camera
8 system at the hospital was broken in
9 2009, does that mean it was completely
10 inoperable in any fashion?

11 A. That's correct.

12 Q. Have you looked at the hospital
13 chart with respect to Schoolcraft?

14 A. No.

15 Q. Have you ever looked at the law
16 governing involuntary admissions in the
17 state of New York?

18 A. Not the entire law.

19 Q. What parts of the law have you
20 looked at?

21 A. The parts that are in the
22 policy.

23 MR. SMITH: I want to mark this
24 as Exhibit 130.

25 [The document was hereby marked]

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1 A. MAFFIA

2 as Plaintiff's Exhibit 130 for
3 identification, as of this date by
4 the attorney.]

5 MR. SMITH: Let's take a
6 five-minute break.

7 Going off the record. It's
8 11:21.

9 [Discussion held off the
10 record.]

11 [Whereupon, at 11:21 a.m., a
12 recess was taken.]

13 [Whereupon, at 11:36 a.m., the
14 testimony continued.]

15 MR. SMITH: Back on the record.
16 It's 11:36.

17 Off the record I marked as
18 Exhibit 130 a group of documents that
19 came from the Jamaica Hospital
20 production. They don't have Bates
21 stamp numbers on them, but they were,
22 I believe, the sections from the
23 production by Jamaica Hospital
24 relevant to Jamaica Hospital policies
25 regarding its admission procedures at

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1 A. MAFFIA

2 the hospital.

3 MR. RADMISLI: Just so the
4 record is clear, we served them on
5 August 5, 2011.

6 MR. SMITH: Right.

7 Q. Have you had a chance to look
8 at the document part of 130, sir?

9 A. Yes.

10 Q. Were these all of the documents
11 that you looked at in preparing for your
12 deposition, or were they just some of
13 them?

14 A. These are the ones.

15 Q. These are all of the ones?

16 A. Yes.

17 Q. Can you tell me what the
18 documents that are Exhibit 130 are,
19 generally?

20 A. Generally, one is the Emergency
21 Admission Procedure and that lists the
22 section of New York State Mental Hygiene
23 Law for admission.

24 The next page is the
25 Involuntary Legal Status Admission Policy

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1 A. MAFFIA

2 when someone is brought to the hospital
3 and evaluated by the physician.

4 The next one is the Emergency
5 Admission Status where the mental hygiene
6 law would apply and how the physician
7 would evaluate a patient based on the
8 law, what the procedure would be.

9 And the last, I think it's the
10 last one, it's the admission from the
11 emergency room to the floor to the
12 inpatient unit and what that would
13 entail.

14 Q. Are there any other pertinent
15 policies with respect to the hospital
16 that aren't set forth here in connection
17 to a decision to admit on an involuntary
18 basis an individual?

19 A. No, I believe this is all.

20 Q. On the third page of that
21 document at the bottom there is
22 indication of reviewed, revised, and a
23 series of dates.

24 Do you see that?

25 A. Yes, I do.

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1 A. MAFFIA

2 Q. Who is involved in the
3 reviewing and revising the Jamaica
4 Hospital involuntary hospital procedures?

5 A. That would be the physicians,
6 the chairman the associate chairman.

7 These are policies for
8 physicians so they would review those.

9 Q. And the chairman is Dr. Vivek?

10 A. That's correct.

11 Q. Who is the associate chairman?

12 A. Dr. Vinod, V-I-N-O-D; last name
13 Dhar, D-H-A-R.

14 Q. And Vivek and Dhar were the
15 chairman and associate chairman of the
16 Psychiatric Department in 2009?

17 A. Yes.

18 Q. And they are currently in those
19 positions; is that true?

20 A. Yes, Dr. Vivek was the
21 chairman. I have to remember when doctor
22 Dhar came back.

23 You will have to excuse me, we
24 had changes in personnel and I don't
25 exactly recall when Dr. Dhar came.

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1 A. MAFFIA

2 Q. Who was Dhar's predecessor?

3 A. Dr. Bamji. He was not there at
4 the time.

5 Q. In October of '09?

6 A. Yes.

7 Q. So Dhar was?

8 A. I believe he was there. I can
9 check and make sure. I don't want to....

10 Q. How did you spell the other
11 individual's name?

12 A. Bamji, B-A-M-J-I. First name
13 is Dinshaw, D-I-N-S-H-A-W.

14 Q. Is there anybody else at the
15 hospital responsible for participating in
16 the review and the revision of policies
17 with respect to involuntary admissions?

18 A. It would be those people.

19 Q. Anybody else?

20 A. I don't believe so.

21 Q. Were you at all involved in
22 that activity?

23 A. I was involved only that I had
24 read them and -- but the physicians are
25 the ones that are really involved with

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1 A. MAFFIA

2 the particular use of this.

3 Q. On the second page of this
4 document, there is a caption for a policy
5 called, "Involuntary Legal Status."

6 A. Yes.

7 Q. When does this policy apply?

8 A. Well, the involuntary legal
9 status would apply if the patient is ill,
10 mentally ill, and for some reasons does
11 not feel that they need to be admitted or
12 the physician feels for some reason that
13 they need to be admitted.

14 Q. Do you know whether or not
15 Schoolcraft was admitted under this
16 policy?

17 MR. RADOMISLI: Objection to
18 form.

19 Q. Under the policy in front of
20 you right now.

21 MR. RADOMISLI: That's the 927?

22 MR. IVONE: Isn't that a
23 psychiatric decision?

24 MR. SMITH: Forget about it. I
25 withdraw the question.

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1 A. MAFFIA

2 Q. You see on the second page of
3 Exhibit 130, there is a "Procedure"
4 heading, do you see that?

5 A. Uh-huh, yes.

6 Q. It says, 1, "An application for
7 the admission of patient under this
8 status will be made by any person."

9 Do you see that?

10 A. Yes.

11 Q. Who are the individuals who can
12 make an application for admission under
13 this procedure?

14 A. It says in the policy, "An
15 application for admission of a patient
16 under this status may be made by any
17 person with whom the patient resides:
18 father or mother; husband or wife;
19 brother or sister; or the child of any
20 person or the nearest available relative;
21 the committee of such a person, an
22 officer of any public or well-recognized
23 charitable institution, agency, or home
24 in who's institution the person resides;
25 the director of community/service social

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1 A. MAFFIA

2 service official; the director of the
3 hospital or designee."

4 Q. Do you know whether or not the
5 Plaintiff, Officer Schoolcraft, in this
6 case, was committed under this procedure?

7 A. I don't.

8 Q. Turn to the next policy
9 document called, "Emergency Admission
10 Status."

11 A. Okay.

12 MR. IVONE: What page number?

13 MR. SMITH: A page number on the
14 bottom of 17. It's about five pages
15 in.

16 Q. Do you see in the reviewed
17 portion of this document the series of
18 dates?

19 A. Yes.

20 Q. There is a review date of April
21 '09; also a review date of April 2010.

22 A. Yes.

23 Q. Am I correct that every April,
24 the hospital would undergo a review and
25 make any revisions that the people doing

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1 A. MAFFIA

2 the review thought were appropriate in
3 April?

4 A. Yes.

5 Q. It looks like there was a
6 review done between April '09 and April
7 2010.

8 Do you know if there were any
9 changes to this policy document during
10 that year period?

11 A. No, I don't.

12 Q. Who would know?

13 A. Probably the physicians who
14 reviewed it, the chairman, the associate
15 chairman. I don't know that there were
16 any revisions done.

17 MR. RADOMISLI: Off the record.

18 MR. SMITH: Off the record.

19 It's 11:46.

20 [Discussion held off the
21 record.]

22 [Whereupon, at 11:46 a.m., a
23 recess was taken.]

24 [Whereupon, at 11:47 a.m., the
25 testimony continued.]

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1 A. MAFFIA

2 MR. SMITH: Going back on the
3 record. It's 11:47.

4 Counsel and I have discussed
5 this document. I think counsel for
6 the hospital want's to make a
7 statement.

8 MR. RADOMISLI: Yes.

9 It's my understanding it just
10 says "reviewed." It was reviewed and
11 not revised.

12 In contract, if you look at the
13 admission for the emergency room
14 policy, it has reviewed dates and also
15 a couple of dates where it was
16 revised.

17 It's my understanding as far as
18 the Emergency Admission Status policy,
19 the one we produced and marked today,
20 was the one in effect in 2009.

21 MR. SMITH: Thank you.

22 Q. The Emergency Admission Status
23 policy says, reading the first part,
24 "Jamaica Hospital Medical Center will
25 admit appropriate patients in emergency

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1 A. MAFFIA

2 situation under New York State Mental
3 Hygiene Law Article 9.39 with careful
4 attention to the preservation of their
5 legal rights as well as their safety."

6 Do you see that, sir?

7 A. Yes, I do.

8 Q. Is this one of the policy
9 statements of the hospital that you
10 reviewed, studied, prepared to appear
11 today for?

12 A. Yes.

13 Q. The reference to emergency
14 situations, can you explain to me what
15 the emergency situations are there are
16 being referenced in this statement?

17 A. They would be anybody who would
18 be presenting a danger to themselves or
19 others.

20 Q. And the reference to careful
21 attention, what does that mean?

22 A. To make sure that the patients
23 are treated properly and that the proper
24 evaluations by the physicians are done.

25 Q. Why is careful attention

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1 A. MAFFIA

2 required under Jamaica Hospital policy?

3 A. Because it's the patient's
4 right to have a careful review and to get
5 the best medical care possible.

6 Q. You agree with me involuntary
7 admission is a deprivation of a person's
8 right to freedom on some level?

9 MR. RADOMISLI: Objection.

10 MR. CALLAN: Objection.

11 MR. RADOMISLI: Don't answer the
12 question.

13 MR. SMITH: On what basis are
14 you instructing the Witness not to
15 answer that question?

16 MR. RADOMISLI: Beyond the scope
17 of the deposition.

18 Q. The next sentence reads,
19 "Patients alleged to have a mental
20 illness for which immediate observation,
21 care, and treatment in the hospital is
22 appropriate and is likely to result in
23 serious harm to himself and others, may
24 be admitted under this provision for a
25 period of 15 days."

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1 A. MAFFIA

2 Do you see that?

3 A. Yes, I do.

4 Q. Is this another one of the
5 policy statements that you studied?

6 A. Yes.

7 Q. The phrase "mental illness,"
8 what does that mean?

9 A. What does the phrase "mental
10 illness" mean? In this context, I'm
11 assuming that would be the physician's
12 decision to determine what the mental
13 illness is.

14 Mental illness can be a wide
15 range and variety of things. That's
16 where the physicians have to make that
17 determination.

18 Q. The physicians have to make a
19 determination whether or not the patient
20 has a mental illness, right?

21 A. Uh-huh.

22 Q. Is that correct?

23 A. Right.

24 Q. What I want to know is what is
25 Jamaica Hospital's definition of a mental

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1 A. MAFFIA

2 illness under this policy?

3 A. It would the same definitions
4 that are set down in the DSM 5, then the
5 DSM 4.

6 Q. What are those?

7 A. It's an entire book full of
8 definitions.

9 MR. IVONE: You are basically
10 asking him to make a decision as a
11 physician.

12 MR. SMITH: I'm asking him to
13 explain Jamaica Hospital's policy and
14 some of the terms in its policy.

15 MR. IVONE: You are going beyond
16 that.

17 MR. SMITH: I disagree with you
18 so....

19 Q. Did I understand you to be
20 saying that Jamaica Hospital defines
21 mental illness as all of the categories
22 that are set forth in the DSM?

23 A. I would say the answer to that
24 is partially, yes, that's correct. You
25 need to understand that some of that is

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1 A. MAFFIA

2 governed by the state law.

3 Q. I'm not asking about the law.

4 I'm asking you --

5 A. That's what I'm saying. It's
6 governed by the state law.

7 MR. SMITH: I'm going to
8 rephrase the question.

9 Q. Under this policy how does
10 Jamaica Hospital define the term or the
11 phrase "mental illness"?

12 A. I don't know that I can answer
13 that.

14 MR. RADOMISLI: Asked and
15 answered.

16 Q. Why can't you answer that
17 question?

18 A. Because the term is a broad
19 term and I'm not a physician so I can't
20 make a determination based on each
21 individual case that comes. That's not
22 happening here. So I can't give you that
23 answer. It's much too general.

24 Q. And you can't provide me with a
25 general definition of mental illness?

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1 A. MAFFIA

2 MR. CALLAN: Objection. You are
3 asking him for a medical conclusion,
4 Counsel.

5 MR. SMITH: I'm asking him to
6 explain a phrase in the Jamaica
7 Hospital policy.

8 MR. CALLAN: Which is defined by
9 the physicians who work for Jamaica
10 Hospital, not somebody who is an
11 administrator.

12 MR. SMITH: Then maybe we need a
13 medical person to come here and
14 explain this to us. That's a question
15 I'm going to tender to Jamaica
16 Hospital's counsel.

17 MR. RADOMISLI: He testified, as
18 far as I recall, that the definition
19 of mental illness is what is based on
20 the DSM so he anticipated that
21 question. What is the next question?

22 MR. SMITH: The next question is
23 and still was: Can he provide a
24 general definition of mental illness
25 as defined under the hospital policy?

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1 A. MAFFIA

2 MR. RADOMISLI: And he --

3 MR. SMITH: His answer to that
4 is no, I can't, right?

5 MR. RADOMISLI: His answer was
6 the reference to the DSM.

7 Q. Let me ask the question again:
8 Can you provide a general definition of
9 mental illness?

10 A. No, I can't do that with
11 certainty here because the term is so
12 broad and the amount of the information
13 you would have to have would be so long,
14 I couldn't put it in five words or ten
15 words. It would be something best asked
16 a physician about, not me.

17 Q. The policy statement goes on to
18 say that for a patient whose alleged to
19 have a mental illness for which immediate
20 observation, care, and treatment is
21 appropriate.

22 Do you see that?

23 A. Yes.

24 Q. Can you explain to me what this
25 phrase "immediate observation, care, and

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1 A. MAFFIA

2 treatment" means?

3 A. The care and treatment would be
4 up to the physician and so would the
5 immediate observation.

6 If the physician sees the
7 patient and feels the patients needs to
8 be admitted to the emergency room, they
9 will.

10 Q. The policy goes to say that
11 likelihood to result in serious harm is
12 defined as, and there are two
13 subcategories.

14 The first one says "Substantial
15 risk of physical harm to himself as
16 manifested by threats of or attempts at
17 suicide or serious bodily harm or other
18 conduct demonstrating he is dangerous to
19 himself; or 2, a substantial risk of
20 physical harm to other persons as
21 manifested by homicidal or other violent
22 behavior by which others are placed in
23 reasonable fear of serious physical
24 harm."

25 Do you see those references,

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1 A. MAFFIA

2 sir?

3 A. Yes, I do.

4 Q. In both subcategory 1 and 2,
5 there is a reference to substantial risk.

6 Do you see that?

7 A. Yes, I do.

8 Q. What does that mean?

9 MR. IVONE: Objection to that.

10 It requires a physician to make that
11 determination as to what is or is not
12 substantial risk.

13 MR. CALLAN: I join.

14 MR. IVONE: You can't ask this
15 witness to be describing that.

16 MR. RADOMISLI: Is it the
17 physician who determines what
18 substantial risk is?

19 THE WITNESS: Of course.

20 Q. So you are unable to provide me
21 with the definition of this phrase
22 "substantial risk"; is that correct?

23 A. That's correct.

24 Q. Does the decision to
25 involuntarily admit a patient at Jamaica

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1 A. MAFFIA

2 Hospital require that the patient take
3 any kind of action as opposed to having
4 any kind of thoughts which suggest that
5 the patient is either dangerous to
6 himself, herself, or others?

7 MR. RADOMISLI: Objection to the
8 form.

9 MR. IVONE: Read that back.

10 [The requested portion of the
11 record was read.]

12 MR. IVONE: Objection. He can't
13 make these decisions to respond to
14 that. He is not a physician to be
15 able to do that. I object very
16 strongly.

17 They may have had physicians
18 here having seen -- those are the
19 ones, not this witness.

20 MR. SMITH: Well --

21 MR. RADOMISLI: Or your own
22 expert.

23 MR. SMITH: Yes, well, I
24 understand your objection.

25 Q. I guess my question is: In

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1 A. MAFFIA

2 light of that objection, do you agree
3 with that objection the person to whom
4 these questions should be directed is the
5 physician at Jamaica Hospital, not
6 yourself?

7 MR. IVONE: He can't make the
8 decision to whom you have to direct
9 your question. You can't direct it to
10 him.

11 MR. SMITH: I want to know
12 whether or not he agrees with you.

13 MR. IVONE: It's whether he can
14 answer it.

15 MR. SMITH: What I'm saying to
16 the Witness, does he agree with you he
17 is not the proper person to be asking
18 and answering theses question.

19 MR. RADOMISLI: The problem is
20 he just testified about what the
21 policy is. You're asking about the
22 application of the policy. The
23 application of the policy is not what
24 he's here to testify about.

25 MR. SMITH: I think you are

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1 A. MAFFIA

2 splitting hairs.

3 MR. RADOMISLI: I'm not. You
4 asked the Court to talk about other
5 things, and all he said was, Judge
6 Sweet said it's the admissibility
7 policy of the hospital and included in
8 that would be any determination made
9 by the hospital part of that policy
10 with respect to allocation to
11 different wards.

12 He can testify this is what the
13 policy is and can tell you about the
14 policy, but you can't ask him about
15 the application of the policy.

16 MR. SMITH: I'm afraid he can't
17 even explain to me what the policy
18 means. I think, I don't know, that
19 you agree with me that he can't do
20 that, certainly other counsel have
21 indicated they think that the Witness
22 is not capable of telling me what the
23 phrases in the policy mean.

24 If you agree with their
25 objection, I think you would agree

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1 A. MAFFIA

2 with me we need another person with
3 the capacity to explain what these
4 terms mean; i.e., a physician.

5 If you don't agree with that, it
6 seems to me you have to allow me to
7 inquire about this.

8 Frankly, they might be right,
9 this objection is well-founded. This
10 is the witness presented to me to
11 provide testimony about the policy of
12 Jamaica Hospital with respect to
13 involuntary admissions.

14 MR. RADOMISLI: Right.

15 MR. SMITH: So we either get
16 another doctor or I'm going to
17 continue with this witness without
18 prejudice to asking that somebody with
19 better knowledge shows up.

20 MR. RADOMISLI: His testimony
21 was it's up to the physician to make
22 that determination, that's the answer.

23 MR. SMITH: I'm going to ask the
24 Witness another question.

25 Q. Sir, Mr. Maffia, do you agree

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1 A. MAFFIA

2 with the objection that was just made by
3 counsel for Dr. Isakov?

4 MR. IVONE: My name is Ivone.

5 You can't really ask him to make
6 a decision as to whether I'm right or
7 wrong. That's what you asked him to
8 do.

9 MR. SMITH: I want to know
10 whether he agrees with you that --

11 MR. IVONE: That's not his
12 function, to make a decision as to
13 whether I'm right or wrong.

14 MR. CALLAN: I don't think he's
15 gone to law school and to judge
16 whether an objection is valid or
17 invalid.

18 MR. RADOMISLI: Objection to
19 that question.

20 Q. Do you believe that you are
21 capable of providing testimony to me
22 today about the meaning of the hospital
23 policy that's before you?

24 MR. RADOMISLI: Well, objection.

25 He doesn't know what you are going to

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1 A. MAFFIA

2 ask so....

3 Q. Can you answer the question,
4 please?

5 A. Repeat it.

6 [The requested portion of the
7 record was read.]

8 A. I can discuss the policy, but I
9 can't discuss any part that a physician
10 would play in the implementation,
11 evaluation of the policy as it regards to
12 patients.

13 Q. I don't understand that
14 distinction. I'm going to try this
15 question again: Does the hospital policy
16 with respect to involuntary admissions
17 require as a condition of involuntary
18 admission that the patient take any
19 affirmative steps or manifest any kind of
20 conduct as opposed to only requiring that
21 the patient entertain certain kinds of
22 thoughts?

23 A. To the best of my knowledge, it
24 could be and may be both.

25 Q. Can you explain that answer to

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1 A. MAFFIA

2 me both?

3 A. You can either think it or act
4 it.

5 Q. And so the patient could either
6 think dangerous thoughts or act with
7 conduct that is construed as dangerous
8 and that could be sufficient to
9 involuntarily admit the patient; is that
10 that's correct?

11 MR. RADOMISLI: Objection.

12 Don't answer.

13 MR. SMITH: What basis?

14 MR. RADOMISLI: Beyond the
15 scope. You're asking about the
16 application of the policy, not to tell
17 you what the policy is.

18 MR. SMITH: I think we are going
19 to have to have another witness come
20 and explain some of these phrases in
21 this document to me.

22 Without waving that position,
23 I'm going to continue with this
24 examination of this witness.

25 MR. RADOMISLI: From my

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1 A. MAFFIA

2 perspective, you were able to ask both
3 doctors who actually implemented the
4 policy about the policy at their
5 depositions, and it's also you're
6 asking for essentially expert
7 testimony from a corporate witness
8 which is not permitted.

9 MR. SMITH: I'm not asking for
10 expert testimony. I'm asking Jamaica
11 Hospital to explain to me its policy,
12 that's what I'm asking.

13 So far I haven't heard anything
14 by Jamaica Hospital explaining what
15 this policy it has actually means.

16 MR. RADOMISLI: He said that the
17 policy is determined by the physician.

18 MR. SMITH: Then I need to speak
19 to a physician.

20 MR. RADOMISLI: And you did.

21 MR. SMITH: No, who speaks on
22 behalf of the hospital, not on behalf
23 of himself or herself.

24 Let's go on.

25 Q. On the second page of the

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1 A. MAFFIA
2 document, Procedure 1, "Following an
3 examination and interviews with other
4 informants which may be available should
5 the examining physician consider the
6 patient to meet the criteria before he
7 should certify this finding on Form OMH
8 474."

9 Do you see that?

10 A. I do.

11 Q. Where it says, "following an
12 examination," what examination is being
13 referred to there?

14 A. That would be the psychiatric
15 assessment.

16 Q. And when a patient is brought
17 into the hospital, when should the
18 psychiatric assessment be conducted?

19 MR. RADOMISLI: According to the
20 policy?

21 MR. SMITH: Yes.

22 MR. RADOMISLI: Review the
23 policy, see if there is anything in
24 there about that.

25 A. This is the admitting doctor

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1 A. MAFFIA

2 should be responsible for this
3 assuring --

4 MR. RADOMISLI: He is asking
5 when does the first one have to be
6 done, is there anything in this policy
7 that says that?

8 THE WITNESS: I don't see
9 anything.

10 Q. Do you know when the first
11 psychiatric evaluation should be
12 conducted?

13 MR. RADOMISLI: Objection.

14 Don't answer the question.

15 MR. SMITH: Because there is
16 nothing written in the policy, you are
17 telling him not to answer the
18 question?

19 MR. RADOMISLI: That's correct.

20 MR. SMITH: I'm going to have to
21 take this up with the Court.

22 Q. It says here in the Jamaica
23 Hospital policy, there is a reference to
24 informants.

25 Do you see?

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1 A. MAFFIA

2 A. I do.

3 Q. What does that mean?

4 A. That means anybody who brought
5 the patient in who has information about
6 the patient.

7 Q. Are doctors required to conduct
8 an investigation prior to making a
9 decision to involuntarily admit a
10 patient?

11 MR. RADOMISLI: Objection.

12 Don't answer it.

13 MR. SMITH: On what basis?

14 MR. RADOMISLI: A, it goes
15 beyond the scope of the deposition; B,
16 you are asking him to comment on care
17 rendered by codefendants which is not
18 proper; C, he is not a doctor. He is
19 telling you what the policy is.

20 MR. SMITH: I disagree. He is
21 not telling me what the policy is.
22 He's telling me that I can read the
23 words on the page. And you are
24 telling him if it's not on the page,
25 don't answer the question.

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1 A. MAFFIA

2 We can play this game, but it's
3 a game. It's not real from my
4 perspective.

5 MR. RADOMISLI: It's real from
6 perspective. The order is very clear.

7 Q. There is a reference on line 6
8 to a patient being able to give written
9 notice.

10 Do you see that?

11 A. Number 6?

12 Q. "If at any time after
13 admission, the patient or relative or
14 friend or the MHLS gives written notice
15 to the director of request for a court
16 hearing."

17 Do you see that?

18 A. Yes, yes, I do.

19 Q. What constitutes a written
20 notice under the policy?

21 A. A written notice, you can give
22 them a letter.

23 Q. Is a letter the only kind of
24 written notice that's required under the
25 policy?

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1 A. MAFFIA

2 A. I don't know.

3 Q. If a patient says I want to get
4 out, would you please put that down in
5 the hospital chart --

6 A. You could --

7 Q. -- is that written notice?

8 A. Yes.

9 Also, do you know what MHLS is?

10 Q. Is that Mental Health Law
11 Services?

12 A. Legal services, yeah.

13 This means that every year a
14 patient on the inpatient service has
15 legal counsel representation.

16 MR. RADOMISLI: Objection to the
17 form of the last question because it
18 talks about a court hearing, not I
19 want to get out.

20 Q. The next policy statement,
21 Admissions to Emergency Room subject
22 matter --

23 MR. IVONE: Is that 7?

24 MR. SMITH: No, this is the next
25 policy statement staring on page 44.

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1 A. MAFFIA

2 MR. IVONE: Okay.

3 MR. SMITH: Goes onto 45,

4 Caption subject, Admissions
5 to Emergency Room.

6 MR. IVONE: I have it.

7 Q. Is this the procedure for
8 taking a patient from the psychiatric
9 emergency room to one of the wards?

10 A. Yes.

11 Q. On the next page, No. 3, "It's
12 the responsibility of the admitting
13 psychiatrist to determine if the patient
14 is medically suitable for the inpatient
15 unit."

16 Do you see that?

17 A. Yes.

18 Q. What are the circumstances
19 under which an individual would not be
20 medically suitable for the inpatient
21 unit?

22 MR. IVONE: Doesn't that state
23 who makes that decision here, "the
24 admitting psychiatrist."

25 MR. SMITH: That's what it says

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1 A. MAFFIA

2 here. I agree with you.

3 MR. IVONE: How can he answer
4 the question?

5 Q. Can you answer the question?

6 A. The physician makes the
7 determination about admission.

8 Q. Can you answer my question,
9 sir?

10 MR. RADOMISLI: He just did.

11 Q. Yes or no?

12 A. No.

13 Q. Am I correct that the hospital
14 policy on involuntary admission requires
15 the physicians to make a determination
16 about whether or not a patient is a
17 danger to themselves or others?

18 A. Yes.

19 Q. Under the hospital policy, what
20 is the degree of likelihood that the
21 patient will engage in dangerousness
22 that's required in order to involuntarily
23 admit a patient?

24 MR. RADOMISLI: Objection.

25 A. I'm sorry?

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1 A. MAFFIA

2 MR. RADOMISLI: You can answer.

3 MR. IVONE: Can you please read
4 that back.

5 [The requested portion of the
6 record was read.]

7 MR. IVONE: Objection to this
8 witness answering such a question.

9 Q. Can you answer the question,
10 please?

11 MR. IVONE: It's a medical
12 decision.

13 MR. RADOMISLI: That's going to
14 be his answer.

15 Q. Can you answer my question,
16 please?

17 A. It's a medical decision.

18 Q. Are you capable of providing
19 information about the level of potential
20 risk that is required in order to
21 involuntarily admit a patient?

22 MR. IVONE: Objection.

23 MR. RADOMISLI: Objection to
24 form.

25 You can answer.

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1 A. MAFFIA

2 A. It's a medical question. The
3 physician determines.

4 Q. So you can't provide
5 information on that, is that what are
6 you're telling me?

7 A. The physician does.

8 Q. You're not answering the
9 question. I understand the physician
10 said that.

11 Are you telling me you are not
12 capable of providing that information?

13 A. I'm not a physician.

14 Q. And therefore you are not
15 capable of providing me with the
16 information I'm requesting; is that
17 correct?

18 A. Yes.

19 MR. RADOMISLI: Objection to
20 form.

21 Q. In Dr. Bernier's deposition,
22 she testified that if there was any
23 potential risk of dangerousness that she
24 would involuntarily admit the patient.

25 Is that consistent with

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1 A. MAFFIA

2 hospital policy?

3 MR. RADOMISLI: Objection.

4 Don't answer the question.

5 Beyond the scope.

6 Q. At Dr. Isakov's deposition, he
7 said that it doesn't matter, this is from
8 page 98.

9 "It doesn't matter what level
10 of risk, if there is a risk, I think it's
11 my duty to protect the patient.

12 There was a follow-up question.

13 "Question: So it doesn't
14 matter what level of risk so long as you
15 perceive a risk, you are going to admit
16 him?

17 "Answer, Yes, right."

18 Is that testimony by Dr. Isakov
19 consistent with hospital policy on the
20 determination of whether or not to
21 involuntarily admit a patient based on a
22 dangerousness assessment?

23 MR. RADOMISLI: Objection.

24 Don't answer the question.

25 MR. IVONE: Objection.

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1 A. MAFFIA

2 MR. CALLAN: Objection.

3 Q. Does hospital policy require
4 that when police officers present an
5 individual to the hospital that the
6 police officers sign any documents or
7 make any certifications when tendering a
8 patient for assessment by the Psychiatric
9 Department?

10 MR. RADOMISLI: Read that back,
11 please.

12 [The requested portion of the
13 record was read.]

14 MR. IVONE: Objection.

15 MR. RADOMISLI: Objection,
16 beyond the scope.

17 MR. SMITH: Are you instructing
18 him not to answer that question also?

19 MR. RADOMISLI: It's beyond the
20 scope.

21 MR. SMITH: Yes, and he is
22 instructed not to answer the question?

23 MR. RADOMISLI: Yes.

24 Just read it back one more time
25 for me.

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1 A. MAFFIA

2 [The requested portion of the
3 record was read.]

4 [A document was hereby marked
5 as Plaintiff's Exhibit 131 for
6 identification, as of this date.]

7 Q. I'm going to show you what I'm
8 marking as Plaintiff's Exhibit 131. This
9 is a one-page document that comes out of
10 a hospital chart.

11 Are you familiar with this
12 form?

13 A. Yes.

14 Q. What is this form?

15 A. Notice of Status and Rights of
16 Emergency Admission.

17 Q. Is this a document that's
18 required under hospital policy to be
19 given to patients who are involuntarily
20 committed at the hospital?

21 MR. RADOMISLI: Objection to
22 form.

23 You can answer.

24 A. Yes.

25 Q. Do you see in the upper

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1 A. MAFFIA

2 right-hand corner, there is a date that's
3 handwritten in there?

4 MR. RADOMISLI: I'm not going to
5 let him testify about the form.

6 MR. SMITH: So if I ask him what
7 this form is, what some of the
8 language on the form says, you are not
9 going to allow him to answer it?

10 MR. RADOMISLI: Well, maybe I'll
11 allow him to answer questions
12 regarding the language on the form;
13 certainly nothing handwritten by
14 somebody else.

15 MR. SMITH: All right.

16 Q. Directly to the left of the
17 handwritten portion, what does that say?

18 A. Where am I looking at? What
19 are you talking about?

20 Q. Do you see "Date of Arrival At
21 Hospital"?

22 A. Okay.

23 Q. Do you see that?

24 A. Yes.

25 MR. IVONE: Sorry. Where are

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1 A. MAFFIA

2 you talking about?

3 MR. SMITH: Do you see the date
4 11/1 or 11/3 in handwriting on the
5 upper right-hand portion by your
6 thumb?

7 MR. RADOMISLI: That's a
8 question to the attorney.

9 Q. Directly to the left of that
10 handwriting there is a column, "Date of
11 Arrival at Hospital," right?

12 A. Okay. Yes.

13 Q. In this form, what is that a
14 reference to?

15 A. On this form what is that date
16 a reference to?

17 Q. Yes. What are you supposed to
18 write, date of arrival at the hospital,
19 what date are you supposed to put down?

20 MR. RADOMISLI: Is there a
21 policy that governs what date you put
22 down? Look at the policy.

23 THE WITNESS: No.

24 Q. Is that defined in the policy?

25 A. I don't think so.

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1 A. MAFFIA

2 MR. RADOMISLI: Then it's beyond
3 the scope.

4 Q. Aren't you supposed to put down
5 the date that the patient got to the
6 hospital on this form, this notice?

7 MR. RADOMISLI: Objection, asked
8 and answered.

9 Don't answer the question.

10 MR. SMITH: Don't answer the
11 question?

12 MR. RADOMISLI: Right, because
13 he testified it wasn't in the policy.

14 Q. Doesn't this form that was
15 created by the hospital require the
16 information about when the patient got to
17 the hospital to be recorded in the notice
18 that is given to the patient?

19 A. This is given to the patient,
20 yes.

21 Q. The form is given to the
22 patient, right?

23 A. Yes.

24 Q. And somebody from the hospital
25 is supposed to write the date that the

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1 A. MAFFIA

2 patient got to the hospital, right?

3 MR. RADOMISLI: Is that in the
4 policy? Look at the policy, testify
5 about the policy.

6 THE WITNESS: No, it's not in
7 the policy.

8 Q. So there is nothing in the
9 hospital policy about recording when the
10 patient gets to the hospital; is that
11 right?

12 MR. RADOMISLI: About the policy
13 we have before looking at?

14 MR. SMITH: Right.

15 Q. There is nothing in the
16 involuntary admissions policy at Jamaica
17 Hospital that would require there be some
18 sort of documentation of when the patient
19 got to the hospital; is that correct?

20 A. There's not in this policy, no.

21 Q. So that's correct?

22 A. Right, yes.

23 Q. I have shown you all of the
24 documents --

25 A. Yes.

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1 A. MAFFIA

2 Q. -- that I believe are the
3 hospital policy and you told me that's
4 all of it. So there is nothing else,
5 there is no other pieces of paper I
6 should be looking for?

7 MR. RADOMISLI: Pertaining to
8 involuntary admissions?

9 MR. SMITH: Yes.

10 Q. Pertaining to involuntary
11 admissions, right?

12 A. Yes.

13 Q. So there is no policy about
14 involuntaries where the hospital required
15 documentation of when the patient got to
16 the hospital; is that correct?

17 MR. RADOMISLI: Objection.

18 Q. In the policy?

19 MR. RADOMISLI: Asked and
20 answered.

21 You can answer again.

22 A. In the policy there is none.

23 Q. Who created that form, Exhibit
24 131, not the handwriting, just the
25 preprinted form?

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1 A. MAFFIA

2 A. I believe the Office of Mental
3 Health.

4 Q. New York State?

5 A. Yes.

6 Q. Does hospital policy permit an
7 individual to be held for observation for
8 a period of time before psychiatric
9 assessment is conducted of the patient?

10 A. The psychiatric assessment, you
11 are talking about the emergency room or
12 on the floor?

13 Q. I'm talking about anywhere, for
14 any reason.

15 A. If a patients to the --

16 MR. IVONE: Aren't you asking a
17 question that's statutory? Some other
18 questions --

19 Q. Would you please answer my
20 question?

21 A. If the patient comes to the
22 emergency room, the psychiatric
23 assessment is done in the emergency room.

24 Q. Is there anything in Jamaica
25 Hospital policy that authorizes an

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1 A. MAFFIA

2 individual to be held for observation
3 prior to a psychiatric assessment?

4 MR. IVONE: Read that back.

5 [The requested portion of the
6 record was read.]

7 A. Are we talking about a
8 psychiatric emergency room or any
9 emergency room anywhere in the hospital?

10 Q. Under any circumstances, sir.

11 MR. IVONE: Objection. Isn't
12 this a decision by a physician to
13 decide that?

14 Q. Would you answer my question,
15 please?

16 MR. IVONE: Objection.

17 MR. RADOMISLI: Review the
18 policy and answer his question.

19 A. In the Emergency Department in
20 psychiatry when a patient goes in, he
21 gets the psychiatric assessment.

22 If he is in the another
23 emergency room for other reasons like the
24 medical emergency room, that evaluation
25 would have to be done by a consulting

Page 99

1 A. MAFFIA

2 psychiatrist.

3 Q. You are not answering my
4 question.

5 Is there anywhere in Jamaica
6 Hospital policy some sort of
7 authorization to hold a patient before
8 the patient is psychologically evaluated?

9 A. I'm sorry. I can't answer
10 that, I don't know.

11 Q. In this case Schoolcraft was
12 brought to the hospital on the night of
13 October 31, 2009, and he was
14 psychologically assessed the following
15 day.

16 Is there anything in Jamaica
17 Hospital policy that authorizes it or
18 permits any of its employees to hold a
19 patient against the patient's will before
20 the patient has been evaluated for
21 involuntary admission?

22 A. I don't believe that I know
23 that.

24 Q. Does hospital policy require
25 physicians to consider the safety of the

Page 100

1 A. MAFFIA

2 community in making involuntary admission
3 decisions?

4 A. The admission decision is based
5 on the 9.39 regulation from the mental
6 hygiene law which is again a danger to
7 self or others. The physician makes that
8 determination.

9 Q. So does the hospital policy
10 require physicians to protect the
11 community?

12 MR. RADOMISLI: Objection to
13 form.

14 You can answer.

15 A. Yes.

16 Q. What are the factors involved
17 in making an involuntary commitment
18 decision?

19 A. The physician has to evaluate
20 the patient as it states in the law.
21 They have to determine if the patient is
22 a danger to himself or others.

23 Q. Are you capable of providing me
24 with information about how that decision
25 is made on a particularized basis?

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1 A. MAFFIA

2 A. No, because the psychiatric
3 assessment is done by the physician.

4 Q. Is there any time requirement
5 in the hospital policy governing when a
6 second evaluation must be done in order
7 to maintain a patient's status as an
8 involuntary?

9 A. I think that's in the policy.
10 Let me check the policy. I think it's
11 "The admitting doctor will be responsible
12 for" --

13 THE REPORTER: You have to slow
14 down.

15 Q. You don't have to read it out
16 loud. Take a look and tell me whether or
17 not there is such a requirement.

18 A. Yes. It's conducted.

19 Q. What is the requirement?

20 A. Conducted within 48 hours of
21 admission.

22 Q. So the second evaluation has to
23 be done within 48 hours of admission?

24 A. Uh-huh.

25 THE REPORTER: Yes?

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1 A. MAFFIA

2 THE WITNESS: Yes.

3 Q. When you say that the second
4 evaluation has to be done within 48 hour
5 of the admission, do you mean the second
6 evaluation has to be done within 48 hours
7 of the initial decision to involuntarily
8 admit the patient?

9 A. No. It says "admission." So
10 if the patient is admitted, then within
11 48 hours of the admission, they would do
12 the evaluation.

13 Q. That's admission. If the
14 patient is admitted in the medical, is
15 that a reference to medical admission?

16 MR. RADOMISLI: Objection to
17 form.

18 A. No.

19 Q. What is that a reference to?

20 A. We are talking about the
21 Psychiatric Department here.

22 Q. So the 48 hour clock begins
23 when the patient is admitted in the
24 psychiatric unit, right?

25 A. It says here, patient is --

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1 A. MAFFIA

2 "The evaluation/examination is conducted
3 within 48 hours of admission."

4 Q. And the term "admission," is
5 referring to the admission of the patient
6 by the psychiatric emergency room, right?

7 MR. RADOMISLI: Objection to
8 form.

9 Can you rephrase it?

10 Q. The term "admission" refers to
11 admission of the patient by the
12 Psychiatric Department of the hospital;
13 is that right.

14 MR. RADOMISLI: Objection to
15 form.

16 You can answer.

17 A. If a patient --

18 MR. RADOMISLI: Just answer his
19 question. If you can't answer the
20 question, tell him.

21 Read it back.

22 [The requested portion of the
23 record was read.]

24 A. Yes.

25 MR. SMITH: Can you get me that

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1 A. MAFFIA

2 performance evaluation form?

3 MR. RADOMISLI: Because that
4 portion is going to be marked
5 confidential.

6 Off the record.

7 [Discussion held off the
8 record.]

9 MR. SMITH: Going off the
10 record. It's 12:36.

11 [Discussion held off the
12 record.]

13 [Whereupon, at 12:36 p.m., a
14 recess was taken.]

15 [Whereupon, at 12:44 p.m., the
16 testimony continued.]

17 MR. SMITH: Back on the record
18 12:44.

19 MR. RADOMISLI: Plaintiff's
20 counsel and I had an off-the-record
21 conversation, and I indicated that I
22 will consider bringing back a doctor
23 to testify solely on behalf of Jamaica
24 Hospital to testify about the
25 admissibility policy of the hospital.

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1 A. MAFFIA

2 I will let plaintiff's counsel
3 know within two weeks and everybody
4 else as well whether we will
5 voluntarily produce a witness, a
6 physician witness, from the hospital
7 to testify about that particular
8 issue.

9 MR. SMITH: Okay.

10 MR. RADOMISLI: Now, let's go to
11 the confidential portion of the
12 deposition.

13 [Whereupon, the following is
14 deemed confidential:]

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1 A. MAFFIA

2 [The document was hereby marked
3 as Plaintiff's Exhibit 132 for
4 identification, as of this date by
5 the attorney and deemed
6 confidential.]

7 MR. SMITH: I'm placing before
8 the Witness a document an 11-page
9 document stamped Plaintiff's Exhibit
10 132 and also been labeled by Jamaica
11 Hospital's counsel as confidential,
12 entitled, "Jamaica Hospital Job
13 Description Performance Evaluation."

14 Do you mind if I get a copy of
15 that too?

16 MR. RADOMISLI: Sorry. Sure.

17 THE WITNESS: Here.

18 MR. SMITH: You should have the
19 one with the sticker on it if there
20 are any questions about the copying.

21 Q. Mr. Maffia, is this the form of
22 evaluation that you had mentioned earlier
23 in your testimony?

24 A. Yes, it is.

25 Q. And you looked at that form in

Page 107

1 A. MAFFIA

2 preparing for your testimony today?

3 A. Yes.

4 Q. Are there any other forms or
5 any other documents that are relevant to
6 an assessment of the performance of a
7 doctor at Jamaica Hospital?

8 MR. RADOMISLI: Objection to
9 form.

10 A. [Indicating.]

11 Q. You have to answer yes or no.

12 A. Are there any others, no, I
13 don't believe.

14 Q. Do you see on the first page
15 there is a reference to ADA codes?

16 A. Right.

17 Q. What are those?

18 A. Um -- those are, um -- I'm
19 trying to remember because they are in
20 the back, the Americans with Disabilities
21 Act codes. If you turn to page --

22 Q. I see this is the list on page
23 5.

24 A. Right, so if you --

25 MR. RADOMISLI: Answer the

Page 108

1 A. MAFFIA

2 question.

3 Q. These are references to
4 categorizing the various work categories
5 either within or outside of the Americans
6 with Disabilities Act Essential Job
7 Functions?

8 A. Yes.

9 Q. Who was the one that filled out
10 or prepared these forms with respect to
11 individual psychiatrists in the
12 Psychiatric Department of Jamaica
13 Hospital?

14 A. Who does the evaluations?

15 Q. Yes.

16 A. The physicians are evaluated by
17 the unit chief.

18 Q. Who were or was the unit chief
19 in October 2009?

20 A. I believe this was a Dr.

21 Edelman, Martha Edelman, E-D-E-L-M-A-N.

22 Q. Does this evaluation apply to
23 doctors or psychiatrists who work in the
24 emergency room as well and doctors or
25 psychiatrists that work in the various

Page 109

1 A. MAFFIA

2 wards?

3 A. Yes.

4 Q. Does the evaluation process
5 track the number of patients that a
6 doctor sees during a period of time?

7 A. No.

8 Q. Does the evaluation process at
9 Jamaica Hospital track the amount of
10 revenue that a physician generates or
11 assists in generating for purposes of
12 assessing the performance of the doctor?

13 A. No.

14 Q. Does the evaluation process
15 keep track of whether or not a physician
16 or psychiatrist in the Psychiatric
17 Department maintain levels of training?

18 A. Well, there is a -- yes, it
19 does.

20 Q. Where is that on the form?

21 A. There is a skill competency
22 check on the second page and....

23 Q. What are you referring to,
24 specifically?

25 A. I'm sorry. It says "Skills."

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1 A. MAFFIA

2 So those competencies would have to be
3 fulfilled.

4 If you also look at "Learning
5 Resources."

6 Q. What page are you at?

7 A. I think it looks like page 6.

8 Q. What are those?

9 A. So those would be things that
10 the supervisor would assess and evaluate
11 the physician on.

12 It says, "the application of
13 knowledge and of skills appropriate to
14 care of patients."

15 Q. Where were you just reading
16 from?

17 A. I'm sorry under, "Criteria for
18 Success."

19 Q. Yes.

20 A. Number 1.

21 Q. Thank you.

22 Is the process for evaluating
23 Dr. Bernier the same as the process for
24 evaluating Dr. Isakov?

25 A. The process, yes.

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1 A. MAFFIA

2 Q. Does the hospital generate
3 statistics on length of stay of
4 involuntary admission patients?

5 MR. RADOMISLI: Don't answer the
6 question.

7 Beyond the scope.

8 Q. On page 7 there is some
9 information requested by the form.

10 Can you explain to me how this
11 relates to the performance of a
12 physician?

13 A. Yes. It's performance
14 criteria, knowledge and ability, skills
15 you would have to demonstrate.

16 Now on this form, it's a
17 generic form used for all the evaluations
18 so some of the areas don't apply; for
19 instance, neo relates to infants. We are
20 not going to evaluate on that. It's a
21 general form.

22 If you go to the next page, it
23 says "Adulthood, 19 to 65." We would be
24 using these criteria.

25 Q. These are criteria to measure

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1 A. MAFFIA

2 the performance of the doctor or the
3 patient?

4 A. The physician so that they know
5 the general components of some of the
6 things that they have to be involved in.

7 Q. For example, No. 7 in the
8 category "Adulthood, 19 to 65 years,"
9 "Impact of Drug and/or Alcohol Abuse,"
10 the column to the right, done or not
11 done.

12 What if somebody were to check
13 the box done with respect to that
14 category, what would that mean with
15 respect to the performance of the
16 physician?

17 A. Means that there was some
18 education that they received during the
19 year or supervision that they had
20 surrounding that issue.

21 Q. So the items 1 through 10
22 reflect areas that physicians were
23 provided information about during the
24 course of the year?

25 A. Yes.

Page 113

1 A. MAFFIA

2 Q. On page 10 there is a reference
3 under "Critical Skills" column to
4 "Psychiatric Presentations."

5 Do you see that?

6 A. Sorry, I'm getting there, yes.

7 Q. Page 10 under "Critical Skills"
8 at the bottom it says, "Psychiatric
9 Presentations. What is that a reference
10 to?

11 A. I'm not exactly sure because I
12 don't do the evaluations, but I believe
13 it had to do with how patients present.

14 Q. What does that have to do with
15 how doctors perform?

16 A. The ability to diagnose
17 patients.

18 Q. In reviewing the performance of
19 physicians in the Psychiatric Department
20 at Jamaica Hospital, does the hospital
21 keep track of the number of patients seen
22 by a doctor on an annual basis?

23 A. No.

24 Q. So the number of patients that
25 a psychiatrist sees on an annual basis is

Page 114

1 A. MAFFIA

2 irrelevant of an evaluation of their
3 performance; is that correct?

4 A. I'm trying to frame an answer
5 so that I can give you the correct view.

6 The way physicians are assigned
7 patients is done by the unit chief. They
8 get a specific group of patients to see.
9 They are supposed to see those patients.

10 We keep track of the amount of
11 patients that come to our unit who
12 are admitted so the unit chief tracks how
13 many patients the doctors will see.

14 We don't keep a log on how many
15 they see every year, but they are given a
16 certain groups of patients to see.

17 If there were 25 beds, the
18 doctors divide the patients. The unit
19 chief gets less because he has
20 administrative work to do.

21 Q. So am I correct that the volume
22 or number of patients seen by a
23 psychiatrist is not a factor in the
24 evaluation of the performance of the
25 doctor?

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1 A. MAFFIA

2 A. Not necessarily, no.

3 Q. I don't know what you mean by
4 not necessarily.

5 A. The quality is more important
6 in many cases than the amount. The
7 amount are prescribed, as I mentioned,
8 each staff doctor gets nine or ten
9 patients each. The unit chief gets the
10 remainder.

11 Q. So the work is evenly
12 distributed, right, is that what you're
13 saying?

14 A. Pretty much, yes, but the unit
15 chief gets less because he has
16 administrative work.

17 Q. What about the psychiatrist not
18 on the admissions floor but psychiatrists
19 making decisions about whether or not to
20 voluntarily admit patients, are they
21 evaluated in the numbers of patients that
22 they see or the number of patients that
23 they admit?

24 A. Can I clarify, can I ask a
25 question.

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1 A. MAFFIA

2 Q. Sure.

3 A. Are you talking about the
4 psychiatrists in the emergency room.

5 Q. Yes.

6 A. Or the psychiatrists that are
7 consultants on the medical side?

8 Q. Both, actually.

9 A. So admission to psychiatry is
10 based on acuity.

11 MR. RANDOMISLI: Listen to his
12 question. The evaluation of the
13 psychiatrist.

14 THE WITNESS: Okay.

15 MR. RANDOMISLI: Are they
16 evaluated -- when psychiatrists are in
17 the emergency room, is part of their
18 evaluation based on the number of
19 patients they decide to move on to
20 involuntarily admission to the
21 hospital?

22 THE WITNESS: No, absolutely
23 not.

24 [Whereupon, the following is not
25 deemed confidential:]

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1 A. MAFFIA

2 MR. SMITH: Thank you, Mr.
3 Maffia. I don't have anymore
4 questions at this time.

5 MR. CALLAN: No questions.

6 [TIME NOTED: 1:04 p.m.]

7

8 ANTHONY J. MAFFIA

9

10 Subscribed and sworn to
11 before me this _____
12 day of _____, 2014.

13 _____
14 Notary Public

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2 I N D E X
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WITNESS	EXAMINATION BY	PAGE
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5

A. Maffia	Mr. Smith	7
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9 E X H I B I T S
10

PLAINTIFF'S	DESCRIPTION	PAGE
Exhibit 130	Group of documents	52 / 53
Exhibit 131	Page of hospital	
	Chart	91
Exhibit 132	Confidential	
	Document	105

11 Attorney Smith has retained all exhibits.
12

13

14 CONFIDENTIAL PORTIONS
15

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REQUESTS

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32	19

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2 CERTIFICATION

3

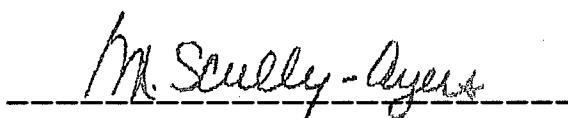
4 I, MARGARET SCULLY-AYERS, a Notary
5 Public for and within the State of New
6 York, do hereby certify:

7 That the witness whose testimony as
8 herein set forth, was duly sworn by me;
9 and that the within transcript is a true
10 record of the testimony given by said
11 witness.

12 I further certify that I am not
13 related to any of the parties to this
14 action by blood or marriage, and that I
15 am in no way interested in the outcome of
16 this matter.

17 IN WITNESS WHEREOF, I have hereunto
18 set my hand this 18th day of June, 2014.

19

20 

M. Scully-Ayers

21

MARGARET SCULLY-AYERS

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2 **ERRATA SHEET**

3 **VERITEXT/NEW YORK REPORTING, LLC**

4

5 **CASE NAME: Adrian Schoolcraft -v- The
6 City of New York et al.**

7 **DATE OF DEPOSITION: May 30, 2014**

8 **WITNESS' NAME: Anthony J. Maffia**

9

10 **PAGE/LINE(S) / CHANGE REASON**

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